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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 09/994,805 | 11/28/2001 | Anthony V. Pugliese III | 954.39363X00 | 8808 |

7590 12/17/2004

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| EXAMINER |
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JANVIER, JEAN D

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| ART UNIT | PAPER NUMBER |
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3622

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Non-Responsive Communication

To be complete, a reply to a restriction requirement must include an election of one of the inventions, as seen below, to be examined even though the requirement may be traversed (37 CFR 1.143). Therefore, the Applicant's response to the 121 requirements is said to be non-responsive. Furthermore, it appears that the Applicants have different reason as to why the claims should be examined together.

Applicant is given one month (or 30 Days) to respond to this correspondence.

Below is a copy of the restriction requirement as previously submitted.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, drawn to a method for accessing a network by a customer, selecting items to view, for dynamically displaying images of items in response to a customer's request **and for assigning a token to said customer to make a purchase.**
- II. Claims 6-10 and 11-12, drawn to a method for searching a merchant inventories for items to meet a customer's specifications, notifying a customer of availability of items and for compensating a referring merchant.
- III. Claims 13-20, drawn to a system comprising an entry portal, a session management communicating with said entry portal and a customer database

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accessible by said session management module for storing customer registration and transaction history.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and III, for instance, are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination has separate utility such as a system comprising an entry portal, a session management communicating with said entry portal and a customer database accessible by said session management module for storing customer registration and transaction history.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

A telephone call was made to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of one of the above inventions to be examined even though the requirement may be traversed (37 CFR 1.143).

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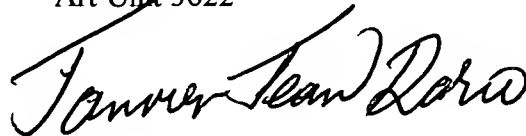
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean D Janvier whose telephone number is 308-6287. The examiner can normally be reached on Monday-Thur 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. P Stamber can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jean D Janvier
Examiner
Art Unit 3622

A handwritten signature in cursive script, appearing to read "Jean D Janvier", written in black ink.

JDJ
12/14/04